

Kimball, Tiley & St. John LLP

Abandoned Personal Property - Residential

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Revised January, 2013

Tenants frequently leave personal property behind when they move out. It may be as simple as a box of trash or as complex as a house full of belongings. California law establishes a specific procedure for landlords to follow to avoid liability in connection with abandoned personal property

If the Sheriff Posted a Writ of Possession on the Property

Step One: Keep the property in a reasonably safe place for fifteen calendar days beginning the day after the lockout by the sheriff. If it is impractical to move the property from the unit, you can store it there, charging the “reasonable storage cost”. This may be the daily prorated value of the unit, or a portion of it.

Step Two: The former tenant has a right to collect the property during the fifteen days after the lockout. You cannot insist that any past due rent be paid in order to get the property back. However, you can require that the tenant pay reasonable storage costs as a condition of returning the property, unless the tenant claims the items within two days after vacating. As of January 1, 2013, if the personal property is claimed within two days, you cannot charge reasonable storage costs.

Step Three: If the former tenant does not claim the personal property, you may dispose of the property any way you see fit, unless the value of the property exceeds \$700.

Step Four: If the value of the property is more than \$700, a public auction is necessary. Before the auction, you must publish a notice of the sale describing the abandoned property once per week for two consecutive weeks in a newspaper of general circulation. The sale must be held at least five days after the last notice was published in the newspaper.

Step Five: You may want to employ the services of a professional auctioneer who is experienced with this type of sale. The sale proceeds can be used only to reimburse you for the storage and selling costs. If the owner of the personal property doesn't claim the balance, it must be given to the county treasurer's office within thirty days from the date of the sale.

If the Sheriff Did Not Post A Writ of Possession on the Property

The landlord must personally deliver or mail a “Notice of Right to Reclaim Abandoned Personal Property” to the former tenant. The form of the “Notice of Right to Reclaim Abandoned Personal Property” is specified by statute. Keep the property reasonably safe during the notice period.

Follow Step 2 if the former tenant comes to retrieve the property. If you do not hear from the former tenant during the notice period (fifteen days if the Notice of Right to Reclaim Abandoned Personal Property is personally served, eighteen days if it is mailed), you may dispose of the property as described in Steps 3 – 5.

New Law Effective January 1, 2013

A new law (AB 2521) was effective January 1, 2013. It amended Civil Code §1946, 1946.1, 1950.5, 1983, 1984, 1985, 1987, 1988 and 1990. It:

- Increases the threshold for auctioning personal property abandoned at a residential property to less than \$700. (Before January 1, 2013, the threshold was less than \$300);
- Specifies that if the abandoned personal property is reclaimed within 2 days after vacating the premises, the landlord may not charge storage costs to the tenants. (Previously landlords could charge storage costs during the two day period);
- Requires specific text in (a) 30 and 60 day notices of termination of tenancy served by landlords and (b) required abandoned personal property notices; and
- Allows the landlord to send the abandoned personal property notice by email (in addition to service by either personal delivery or mail).

For Forms or More Information

Kimball, Tirey & St. John LLP offers an informational package with:

- Notice of Right to Reclaim Abandoned Personal Property forms. (There are different forms depending on whether the owner of the personal property is a former tenant or a third party, such as a former spouse, friend or other person who did not reside at the unit).
- A Declaration of Service, which includes an option for the additional service by email
- Detailed instructions about how to deal with abandoned personal property, including abandoned animals and hazardous materials.
- Copies of California's codes relating to abandoned personal property.

This package is available for \$50 online at www.kts-law.com.

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